

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

ROBERT MENENDEZ

and

SALOMON MELGEN,

Defendants.

Crim. No. 2:15-cr-00155
Hon. William H. Walls

**SENATOR MENENDEZ'S MOTION TO RENEW RULE 29 MOTION FOR
JUDGMENT OF ACQUITTAL ON COUNT 18**

Abbe David Lowell
Jenny R. Kramer
Christopher D. Man
Victoria V. Corder
NORTON ROSE FULBRIGHT US LLP
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 974-5600

Raymond M. Brown
Justin P. Kolbenschlag
Gregg H. Hilzer
GREENBAUM ROWE SMITH & DAVIS LLP
Metro Corporate Campus One
P.O. Box 5600
Woodbridge, NJ 07095
(732) 476-3280

Counsel for Defendant Senator Robert Menendez

Senator Menendez renews his Motion for Judgment of Acquittal on Count 18 pursuant to Rule 29 (Dkt. 242). In addition to the reasons set forth in that motion, Count 18 should be dismissed because the government has failed to prove venue. The only evidence concerning venue presented during the government's case was a calendar entry reflecting that Senator Menendez was in New Jersey on May 16, 2011, the same day as one of the disclosure forms charged in Count 18 is dated. (9/20/17 Tr. at 24 (Mohl).) Then, during the defense case, Robert Kelly testified that Senator Menendez signed that particular form in Washington, D.C. on the Thursday before it was submitted. (10/25/17 at 129-35, 196 (Kelly).) Thus, there is no way that particular disclosure statement could have been signed in New Jersey on the same day it was filed by hand in Washington, D.C. (*Id.*) With respect to the other forms, the only testimony concerning where they were signed at trial also came from Mr. Kelly, who stated that it was Senator Menendez's practice to sign disclosure forms in D.C. prior to the date they were due and not in New Jersey. (*Id.*)

For the reasons set forth in his original Rule 29 motion, this additional reason, and based on the evidence introduced in Defendants' case, the Court should enter a judgment of acquittal for Senator Menendez on that count.

Dated: October 30, 2017

Respectfully submitted,

/s/ Abbe David Lowell

Abbe David Lowell

Jenny R. Kramer

Christopher D. Man

Victoria V. Corder

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(732) 476-3280

Counsel for Defendant Senator Robert Menendez

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2017, a true and correct copy of the foregoing Motion was filed with the CM/ECF system for the United States District Court for the District of New Jersey, which will send electronic notification of the filing to all counsel of record.

/s/ Abbe David Lowell